

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MSC MEDITERRANEAN SHIPPING
COMPANY S.A.,

Plaintiff,

v.

CELLMARK PAPER INC.,

Defendant.

Case No. [20-cv-03736-EMC](#)

**ORDER TRANSFERRING CASE TO
THE SOUTHERN DISTRICT OF NEW
YORK**

Plaintiff MSC Mediterranean Shipping Company S.A. (MSC) agreed to transport several paper containers for Defendant Cellmark Paper, Inc. (CPI) from Duluth, Minnesota, to Melbourne, Australia, via the port of Montreal, Canada. *See* Docket No. 26 (Mot. to Dismiss) at 3. MSC alleges that CPI provided the incorrect weight of each container, resulting in the containers collapsing during transit. *Id.*

On May 27, 2021, after hearing arguments on CPI's motion to dismiss for lack of venue, the Court concluded that this Court is not the proper venue for this case because "[t]here is insufficient evidence that CPI had a place of business in" the Northern District of California. *See* Docket No. 37. The Court instructed the parties to meet, confer, and file a joint status report recommending the district to which this case should be transferred. *Id.*

The parties agree that their dispute is governed by a forum selection clause in their contract, which states in relevant part that "[i]n the case of any dispute relating to Freight or other sums due from the Merchant to the Carrier, the Carrier may, at its sole option, bring suit against the Merchant in the [the High Court of London or U.S. District Court for the Southern District of New York], or in the countries of the Port of Loading [Canada], Port of Discharge [Australia],

1 Place of Delivery [Australia] or in any jurisdiction where the Merchant has a place of business.”
2 *Id.* at 4 (emphasis added); *see also* Docket No. 28 (“Opp’n”) at 2. On June 16, 2021, the parties
3 requested that the Court transfer this case to the Southern District of New York. Docket No. 37.

4 Finding that it is “in the interest of justice”, the Court hereby **TRANSFERS** this case to
5 Southern District of New York pursuant to 28 U.S.C. § 1406(a).

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7 **IT IS SO ORDERED.**
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9 Dated: June 21, 2021

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12 EDWARD M. CHEN
13 United States District Judge
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